

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

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Federal Communications Commission  
Office of Secretary

In the Matter of )  
 )  
Amendment of the Commission's ) WT Docket No. 96-6  
Rules To Permit Flexible Service )  
Offerings in the Commercial Mobile )  
Radio Services )

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COMMENTS OF GTE SERVICE CORPORATION

GTE Service Corporation on behalf of its telephone and wireless companies ("GTE") hereby submits comments in response to the *Further Notice of Proposed Rulemaking* ("Further Notice") adopted by the Federal Communications Commission ("FCC" or "Commission") in the above-captioned proceeding.<sup>1</sup> In the *Further Notice*, the Commission seeks comment on the regulatory treatment of entities offering fixed services on commercial mobile radio services ("CMRS") spectrum. In particular, the Commission proposes to establish a presumption that licensees offering fixed services over CMRS spectrum should be regulated as CMRS.<sup>2</sup> As discussed below, GTE supports the Commission's proposal.

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<sup>1</sup> Amendment of the Commission's Rules to Permit Flexible Service Offerings in the Commercial Mobile Radio Services, *First Report and Order and Further Notice of Proposed Rulemaking*, WT Docket No. 96-6, FCC 96-283 (released August 1, 1996).

<sup>2</sup> *Further Notice* at 3-4 (para. 4).

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## I. Discussion

In the *Further Notice*, the Commission seeks comment on whether fixed wireless services should be regulated as CMRS.<sup>3</sup> The Commission notes that whether a service offering meets the statutory definition of CMRS depends largely on whether the service meets the statutory definition of “mobile service.”<sup>4</sup> The Commission notes, further, that if a fixed offering meets the statutory definition of CMRS, the regulatory treatment of the offering is governed by Section 332(c) of the Communications Act.<sup>5</sup> Section 332(c) preempts state rate and entry regulation, but allows states to petition for rate regulatory authority in limited circumstances. Also, acting under authority of Section 332(c), the Commission has decided to forbear from imposing most Title II requirements, including tariff filing requirements, on CMRS providers.

The Commission tentatively concludes in the *Further Notice* that most of the fixed wireless service applications contemplated by CMRS licensees would be provided in conjunction with a traditional CMRS service. As such, the Commission proposes to establish a rebuttable presumption that any wireless service provided under a CMRS provider’s license would be considered CMRS and regulated as such.<sup>6</sup> The Commission proposes to allow parties to rebut the CMRS presumption by

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<sup>3</sup> The Commission does not propose to alter in any way its regulatory treatment of fixed services offered on an ancillary, auxiliary, or incidental basis. Those services will continue to be regulated as CMRS. *Id.* at 48. GTE supports this decision.

<sup>4</sup> *Id.* at 18-19 (para. 41).

<sup>5</sup> 47 U.S.C. § 332(c).

<sup>6</sup> *Id.* at 23-24 (para. 53).

demonstrating that the service provider in question does not meet the definition of CMRS. In making that determination, the Commission proposes to consider a number of factors, including the relative mobility of the handsets used in providing fixed service.<sup>7</sup>

GTE supports the Commission's proposal to presumptively treat all services provided under a CMRS license as CMRS for regulatory purposes. GTE believes that treating most commercial wireless services as CMRS will facilitate the development of new wireless service applications, including fixed applications, that will improve competition and benefit the public. At the same time, however, GTE agrees with the FCC that some fixed wireless applications may not meet the statutory definition of CMRS. Treating such services as CMRS, in particular where such services are a substitute for land line local exchange service, may create unfair competition in local exchange markets. GTE believes that the Commission's proposal to create a rebuttable presumption that all services offered under a CMRS license are CMRS strikes the proper balance between these competing regulatory concerns.

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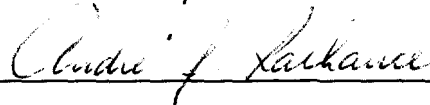
<sup>7</sup> *Id.* at 24 (para. 54).

**II. Conclusion**

For the reasons stated above, GTE supports the Commission's proposal to treat any wireless service provided under a CMRS license as CMRS for regulatory purposes.

Respectfully submitted,

GTE Service Corporation and its telephone  
and wireless companies

By 

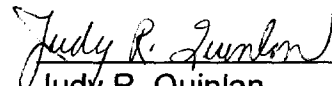
Andre J. Lachance  
1850 M Street, N.W.  
Suite 1200  
Washington, DC 20036  
(202) 463-5276

November 25, 1996

Their Attorney

### **Certificate of Service**

I, Judy R. Quinlan, hereby certify that copies of the foregoing "Comments of GTE Service Corporation" have been mailed by first class United States mail, postage prepaid, on the 25th day of November, 1996 to all parties of record.

  
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Judy R. Quinlan